

HOUSE BILL 733

By Hood

AN ACT to amend Tennessee Code Annotated, Title 4 and
Title 39, relative to public services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 4, is amended by adding the
following as new part 2:

§4-4-201. It is the public policy of the state of Tennessee and the purpose of this
chapter that all persons eighteen (18) years of age or older shall provide proof that they are
lawfully present in the United States prior to the receipt of certain public benefits.

§4-4-202. As used in this part, unless the context otherwise requires:

(1) "Emergency medical condition" means a medical condition (including
emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity
(including severe pain) such that the absence of immediate medical attention could
reasonably be expected to result in:

- (A) Placing the patient's health in serious jeopardy;
- (B) Serious impairment to bodily functions, or
- (C) Serious dysfunction of any bodily organ or part.

(2) "Federal public benefits", except as provided in subdivision (B) below, for
purposes of this part means:

(A)

(1) Any grant, contract, loan, professional license, or commercial
license provided by an agency of the United States or by appropriated
funds of the United States; and

(2) Any retirement, welfare, health, disability, public or assisted
housing, postsecondary education, food assistance, unemployment

benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(B) Such term shall not apply:

(1) To any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658, or a successor provision, is in effect;

(2) With respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the attorney general, after consultation with the secretary of state; or

(3) To the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States; and

(3) “State or local public benefits”, except as provided in subdivisions (B) and (C) below, means:

(A)

(1) Any grant, contract, loan, professional license, or commercial license provided by an agency of Tennessee or local government or by appropriated funds of Tennessee or local government; and

(2) Any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of Tennessee or local government or by appropriated funds of Tennessee or local government.

(B) Such term shall not apply:

(1) To any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658, or a successor provision, is in effect;

(2) With respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the secretary of state, after consultation with the attorney general; or

(3) To the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

(C) Such term does not include any federal public benefit.

§4-4-203.

(a) Except as otherwise provided in this part or where exempted by federal law, on and after July 1, 2007, each agency or political subdivision of the state shall verify the

lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits or for federal public benefits prior to providing such benefits.

(b) This part shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(c) Verification of lawful presence in the United States shall not be required:

(1) For any purpose for which lawful presence in the United States is not required by law, ordinance or rule;

(2) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and that are not related to an organ transplant procedure;

(3) For short-term, noncash, in-kind emergency disaster relief;

(4) For public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(5) For prenatal care; or

(6) For services or assistance provided by public or private non-profit agencies or programs, including, but not limited to, soup kitchens, crisis counseling and intervention, and short-term shelter care, so long as such programs, services or assistance:

(A) Deliver noncash, in-kind services at the community level;

(B) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

(C) Are necessary for the protection of life or safety.

(d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen (18) years of age or older for federal public benefits or state or local public benefits by requiring the applicant to do both of the following:

(1) Execute an affidavit stating that the applicant is a United States citizen or legal permanent resident or that the applicant is otherwise lawfully present in the United States pursuant to federal law; and

(2) Produce one (1) of the following forms of identification:

(A) A valid driver license or official identification card issued by a state government of the United States;

(B) A United States military card or a military dependent's identification card;

(C) A United States coast guard merchant mariner card; or

(D) A native American tribal document.

(e) Notwithstanding the requirements of subdivision (d)(2), the commissioner of finance and administration is authorized to promulgate rules and regulations, provided such rules and regulations shall be effective only until March 1, 2008, providing for additional forms of identification or a waiver process in order to ensure that persons who are lawfully present in the United States, including homeless persons, receive benefits that they are authorized to receive until such persons obtain a document satisfying subdivision (d)(2). Such rules and regulations shall be promulgated as public necessity rules pursuant to §4-5-209.

(f) A person who knowingly makes a false, fictitious or fraudulent statement or representation in an affidavit executed pursuant to this section commits the offense of

perjury as defined in §39-16-701. It shall constitute a separate violation of §39-16-702 each time that a person receives a public benefit based upon such a statement or representation.

(g) For an applicant who has executed an affidavit stating that the applicant is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the federal systematic alien verification of entitlement program, referred to as the "SAVE program," operated by the United States department of homeland security, or a successor program designated by the United States department of homeland security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this section.

(h) It shall be unlawful for an agency or a political subdivision of this state to provide a federal public benefit or a state or local public benefit in violation of this section. Each state agency or department that administers a program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the commissioner of finance and administration and to the speakers of the senate and house of representatives no later than February 1 of each year.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2007, the public welfare requiring it.